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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Inventors: Hans-Ulrich DEMUTH et al.
Serial No.: 10/735,582
Attorney Docket No.: PBD-00017-C1
20784/4-CON
Filed: December 11, 2003
Art Unit.: 1654
Examiner: not yet assigned
Title: PRODRUGS OF DP IV-
INHIBITORS

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, on the date appearing below.

OSI Pharmaceuticals, Inc.
By Shu M. Lee
Shu M. Lee

Date 11 Sept 2006

Mail Stop Amendment
Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

**REQUEST TO REPLACE ERRONEOUS TERMINAL DISCLAIMER
WITH CORRECTED VERSION**

In response to the Office Action mailed April 19, 2006 for this application, Applicants submitted a Terminal Disclaimer that erroneously referred to copending application No. 10/745,776 instead of the correct application No. 09/745,776. Applicants respectfully request replacement of the erroneous terminal disclaimer with the enclosed corrected Terminal Disclaimer. Applicants respectfully submit that the error was obviously a typographical error and not fraudulent. Accordingly, the response was a bona fide response on the merits. Thus, Applicants respectfully submit that the rejections have been overcome, the application is in condition for allowance, and a Notice to that effect should be issued.

Commissioner is authorized to charge any deficiencies in fees and credit any overpayment to OSI Pharmaceuticals, Inc. Deposit Account No. **50-2783**.

Very truly yours,

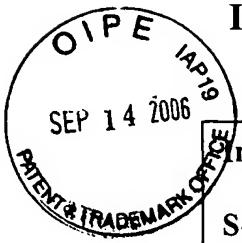


Shu M. Lee

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Sept. 11, 2006
OSI Pharmaceuticals, Inc.
41 Pinelawn Road
Melville, NY 11747

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**TERMINAL DISCLAIMER TO OBLIGATE
A PROVISIONAL DOUBLE-PATENTING REJECTION
OVER A PENDING SECOND APPLICATION**

The owner, Prosidion Limited, of 100 percent interest in the above-referenced application No. 10/735,582 hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application No. 10/735,582, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application No. 09/745,776, filed on September 16, 2002, of any patent on the pending second Application No. 09/745,776. The owner hereby agrees that any patent so granted on the instant application No. 10/735,582 shall be enforceable only for and during such period that it and any patent granted on the second Application No. 09/745,776, are commonly owned. This

agreement runs with any patent granted on the instant application No. 10/735,582 and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application No. 10/735,582 that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the second Application No. 09/745,776, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: i) expires for failure to pay a maintenance fee, ii) is held unenforceable, iii) is found invalid by a court of competent jurisdiction, iv) is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, v) has all claims canceled by a reexamination certificate, vi) is reissued, or vii) is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The undersigned is an attorney or agent of record.

Commissioner is authorized to charge \$110.00 in accordance with 37 CFR 1.20(d) and any deficiencies and credit any overpayment to OSI Pharmaceuticals, Inc. Deposit Account No. **50-2783**.

Attorney for Applicants can be reached at the telephone number and address below.

Respectfully submitted,



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